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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/815,420	03/22/2001	Motohisa Hirano	44471/255858	4555
7590	08/13/2004		EXAMINER	
Roger T. Frost KILPATRICK STOCKTON LLP 2400 Monarch Tower 3424 Peachtree Road, N.E. Atlanta, GA 30326			MANIWANG, JOSEPH R	
			ART UNIT	PAPER NUMBER
			2144	
			DATE MAILED: 08/13/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/815,420	HIRANO ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Joseph R Maniwang	2144	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 24 May 2004.
- 2a) This action is **FINAL**.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-37 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____.   |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>see Office Action</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
|  | 6) <input type="checkbox"/> Other: _____.                                   |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-10, 12, 14-23, 25, 27-31, 33, and 35-37 are rejected under 35 U.S.C. 102(e) as being anticipated by Skardon (U.S. Pat. No. 6,466,133), hereinafter referred to as Skardon.

3. Regarding claims 1, 14, and 27, Skardon disclosed a method and system for providing environmental information to client users. The invention comprised obtaining environmental data from a sensor, storing and processing the data at a base device, and sending the processed data to a user through a communication network (see column 2, lines 24-38; column 3, lines 63-66; column 5, line 56 through column 6, line 55). The processing of the data was performed according to user information of an individual user (see column 4, lines 61-66).

4. Regarding claims 2 and 15, Skardon disclosed applying an information protection with respect to the user information and the processed data, where delivery of data was made directly to a user device, such as a cell phone or a pager, based on a unique

address or number of the client user registered into the system (see columns 7, line 30; column 8, lines 14-15, 27-30; column 9, lines 28-39, 61-63; column 10, lines 23-38).

5. Regarding claims 3 and 16, Skardon disclosed the use of both wired or wireless network communications (see column 7, lines 14-22).

6. Regarding claims 4, 17, and 28, environmental data could be transmitted either automatically or in response to a request (see column 10, lines 39-44).

7. Regarding claims 5 and 18, Skardon disclosed employing a policy in response to a sensor measurement meeting a prescribed condition (see column 10, lines 14-22).

The broad concept of the claimed prescribed condition is likened to the disclosed “trigger threshold”, while the broad concept of a measurement condition setting update is likened to the disclosed generated response.

8. Regarding claims 6, 19, and 29, Skardon disclosed providing information for a location automatically identified according to a communication with a user or ascertained from a location registered by the user, or for a location close to the current location, identified dynamically from the collected environmental data (see column 9, line 67 through column 10, line 3).

9. Regarding claim 7, 20, and 30, Skardon disclosed measuring the amount of pollen in a region as one of the types of environmental data measured (see column 4, lines 1-13).

10. Regarding claims 8 and 21, Skardon disclosed applying statistical information processing with respect to the pollen data collected, including averaging and cumulative integration calculations as claimed (see column 10, lines 45-63).

11. Regarding claims 9 and 22, Skardon disclosed storing measured data in a cache, with the ability to apply a data expiration policy to the cached data based on a specified time frame (see column 10, lines 4-13). Storing the data with date and time information as claimed is inherent in this case as it would be necessary in applying the data expiration policy. It is also clear that this policy, applied at the base device, is a process operating as a function of the date and time information as claimed since the policy depends on such data.

12. Regarding claims 10, 23, and 31, Skardon implicitly disclosed judging whether a monitored region was in a state of either low pollen count or high pollen count, describing the use of allergen thresholds to trigger generation of system responses (see column 10, lines 14-22). A threshold implies that there is a clearly defined state below the threshold and a state above the threshold where in context of pollen count, the states clearly relate to low and high pollen count, respectively.

13. Regarding claims 12, 25, and 33, Skardon disclosed the use of a patient database for storing pollen data responses generated when the data for a region has changed, and personal information for a user, including a user identification and a registered region for the user (see column 4, line 61 through column 5, line 13; column 11, lines 1-28). A user's personal information was stored into the database through a registration process (see column 9, lines 17-39). The pollen information provided to the user was done according to the identified user as claimed, where the generated response was generated based on information stored at the personal information database (see column 9, lines 40-48).

***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 11, 24, and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Skardon (U.S. Pat. No. 6,466,133), as applied to claims 10, 23, and 31 above, and further in view of Blants et al. (U.S. Pat. No. 6,231,519), hereinafter referred to as Blants.

16. Skardon disclosed a method and system for providing environmental information to client users. The invention comprised obtaining environmental data from a sensor, storing and processing the data at a base device, and sending the processed data to a user through a communication network (see column 2, lines 24-38; column 3, lines 63-66; column 5, line 56 through column 6, line 55). Skardon disclosed delivering the processed data to users in various forms, including audio signals, pager messages, fax, or e-mail (see column 10, lines 23-38).

17. While Skardon disclosed several different forms for the pollen data output, Skardon did not specifically disclose forming a map indicating the pollen distribution levels for the measured regions.

18. In a related art of air quality analysis, Blants disclosed a method and system for monitoring pollen levels and sending alerts over a network to users concerning the

levels. Most importantly, Blants disclosed generating the measured pollen data into a map (see column 3, lines 18-23; column 4, lines 56-60; column 5, lines 30-35, 47-59).

19. It would have been obvious to one of ordinary skill in the art at the time of invention to combine the teachings of Skardon and Blants to provide measured pollen information to users in the form of maps indicating the pollen distribution levels for a measured region. One of ordinary skill in the art would have been motivated to do so as providing the data in the form of a map was easier and overcame the problem wherein it was difficult to identify the risk factor of a location (see column 2, lines 23-33; column 5, lines 60-64).

20. Claims 13, 26, and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Skardon (U.S. Pat. No. 6,466,133), as applied to claims 7, 20, and 30 above, and further in view of Blants et al. (U.S. Pat. No. 6,231,519), hereinafter referred to as Blants.

21. Skardon disclosed measuring and storing a pollen amount level for a region (see column 3, lines 63-67), storing user information including a user ID, user specified region, and related pollen level data including trigger thresholds and medical information (see column 11, lines 1-28), searching the databases holding the pollen and user information, and generating pollen warning information to send to the user (see column 11, lines 41-54).

22. While Skardon disclosed storing the medical information of a user and using the information for generating pollen warnings, Skardon did not specifically disclose storing allergy symptoms of a user corresponding between different pollen amount levels.
23. In a related art of air quality analysis, Blants disclosed a method and system for monitor pollen levels and sending alerts over a network to users concerning the levels. Most importantly, Blants disclosed using a server for correlating symptoms with different levels of air quality (see column 4, lines 35-41; column 5, lines 12-19).
24. It would have been obvious to one of ordinary skill in the art at the time of invention to combine the teachings of Skardon and Blants to provide more detailed pollen level warning information to users, including an indication of a symptom corresponding with the measured pollen level ascertained from a stored correlation between symptoms and different pollen levels as claimed. The invention of Blants is very similar to that of Skardon with the added provision for correlating symptoms and air quality patterns. One of ordinary skill in the art would have been motivated to consider such a provision because the added symptom criteria provided a more accurate measurement of the risk of a location to a certain individual (see column 5, lines 37-59).

### ***Conclusion***

25. The Applicant is entitled to traverse any/all official notice taken in this action according to MPEP § 2144.03. However, MPEP § 2144.03 further states "See also In re Boon, 439 F.2d 724, 169 USPQ 231 (CCPA 1971) (a challenge to the taking of judicial notice must contain adequate information or argument to create on its face a

reasonable doubt regarding the circumstances justifying the judicial notice)." Specifically, In re Boon, 169 USPQ 231, 234 states "as we held in Ahlert, an applicant must be given the opportunity to challenge either the correctness of the fact asserted or the notoriety or repute of the reference cited in support of the assertion. We did not mean to imply by this statement that a bald challenge, with nothing more, would be all that was needed". Further note that 37 CFR § 1.671(c)(3) states "Judicial notice means official notice". Thus, a traversal by the Applicant that is merely "a bald challenge, with nothing more" will be given very little weight.

26. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Boatman et al. (U.S. Pat. No. 5,892,690) disclosed an environment monitoring system for providing sensor data to a remote access device.

Baxter, Jr. (U.S. Pat. No. 6,023,223) disclosed an environmental condition warning system for notification of conditions over a network.

Orr et al. (U.S. Pat. No. 5,831,876) disclosed a method for monitoring air pollution and delivering the data as a model or simulation.

Grube et al. (U.S. Pat. No. 6,031,455) disclosed a method and system for monitoring environmental conditions over a wireless network.

Skardon (U.S. Pat. No. 6,288,646) disclosed a method and system for providing air quality advice over a network.

Heinonen et al. (U.S. Pat. App. Pub. 2002/0119769) disclosed a system for automatic measuring of environmental data.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph R Maniwang whose telephone number is (703) 305-3179. The examiner can normally be reached on Mon-Fri 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William A Cuchlinski can be reached on (703)308-3873. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JM



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